

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 1 - 0 1 1

2. STATE:

Minnesota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL  
SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2001

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR 447.252

7. FEDERAL BUDGET IMPACT:

a. FFY '01 \$ 32,833

b. FFY '02 \$ 33,809

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 4.19-D (Tribally Operated NF), pp. 401-408

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):Att. 4.19-D (Tribally Owned or Operated NF),  
pp. 401-402

10. SUBJECT OF AMENDMENT:

Methods and Standards for Determining Payment Rates for Nursing Facility Services Provided by  
in Nursing Facilities Operated by a Tribe or Tribal Organization

11. GOVERNOR'S REVIEW (Check One):

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ OTHER, AS SPECIFIED:☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:

Mary B. Kennedy

14. TITLE:

Medicaid Director

15. DATE SUBMITTED:

8/21/01

16. RETURN TO:

Stephanie Schwartz  
Federal Relations Unit  
Minnesota Department of Human Services  
444 Lafayette Road North  
St. Paul, MN 55155-3853**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

8/27/01

18. DATE APPROVED:

10/24/01

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2001

20. SIGNATURE OF REGIONAL OFFICIAL:

Cheryl Harris

21. TYPED NAME:

Cheryl A. Harris

22. TITLE: Associate Regional Administrator  
Division of Medicaid and Children's Health

23. REMARKS:

**RECEIVED**

AUG 27 2001

**DMCH/ARA**

MINNESOTA  
MEDICAL ASSISTANCE

Federal Budget Impact of Proposed State Plan Amendment TN 01-11  
Attachment 4.19-D: Tribally-Owned or Operated NF

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State plan Attachment 4.19-D (Tribally-Owned or Operated NF) provides the methodology for nursing facilities (NFs) owned or operated by tribes or tribal organizations. Laws of Minnesota 2001, First Special Session 2001, chapter 9, article 17, section 2, subd. 9(g) requires the Department to "make available rate adjustments for the biennium beginning July 1, 2001, on the same basis as the adjustments provided to nursing facilities" that are paid pursuant to the prospective rate-setting methodology described in Attachment 4.19-D (NF), Sections 1.000 through 20.000. The Department must use the facility's final 2000 and 2001 Medicare cost reports to calculate the adjustments.

TN 01-11 reformats Attachment 4.19-D. Each rate year, beginning with the July 1, 1999 rate year, has its own subsection within §3.000.

- §3.010: Deleted language, governing reimbursement effective July 1, 2000, is moved to §3.020.
- §3.020: Current language governing reimbursement effective July 1, 2000.
- §3.030: New language governing reimbursement effective July 1, 2001. Pursuant to Laws of Minnesota 2001, First Special Session, chapter 9, article 5, sections 17-18 and 20).
- §3.040: New language governing reimbursement effective July 1, 2002 and, in some cases, for rate years after July 1, 2002. Pursuant to Laws of Minnesota 2001, First Special Session, chapter 9, article 5, sections 17-18 and 20).
- §4.010: A nursing facility may receive a negotiated payment rate to provide services to ventilator-dependent residents if certain conditions are met. The negotiated payment, for persons admitted before 7/1/01 (provided they do not already have a negotiated rate) cannot exceed 200 percent of the NF's multiple bedroom payment rate for case mix classification K. For recipients admitted on or after 7/1/01, the negotiated payment rate must not exceed 300 percent. Pursuant to Laws of Minnesota 2001, First Special Session chapter 9, article 5, section 15 (Minnesota Statutes, §256B.431, subd. 2e).
- §4.020: In order to assist the long-term care system in attracting and retaining employees, for the July 1, 2001 and July 1, 2002 rate years, a \$.25 operating payment rate increase is provided to NFs to be used for employee scholarship costs and training in English as a second language (ESL). For rate years beginning on or after July 1, 2003, the .25 scholarship per diem is removed from the total operating payment rate, and the scholarship per diem is based on actual costs. Pursuant to Laws of Minnesota 2001, First Special Session, chapter 9, article 6, section 6 (Minnesota Statutes, §256B.431, subd. 35).

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The anticipated fiscal costs are:

Federal Fiscal Year 2001:

	<u>Total Costs</u>	<u>State Costs</u>	<u>Federal Costs</u>
NF Medicaid patient days from July 1 through September 30, 2001	14,700		
Payment rate increase	\$4.37		
	<hr/>		
	\$64,239	\$31,406	<b>\$32,833</b>

Federal Fiscal Year 2002:

	<u>Total Costs</u>	<u>State Costs</u>	<u>Federal Costs</u>
NF Medicaid patient days from October 1, 2001 through September 30, 2002	14,700		
Payment rate increase	\$4.50		
	<hr/>		
	\$66,150	\$32,341	<b>\$33,809</b>

<b>TOTAL BUDGET IMPACT</b>	<b>\$63,747</b>	<b>\$66,642</b>
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The State used the following assumptions:

- The patient day figures are estimated based upon the patient census records for the nursing facility fiscal year ended September 30, 2000.
- The FFP percentage used to compute the federal budget impact is assumed to be 51.11%.
- The estimated aggregate fiscal impact was measured by multiplying the number of nursing facility patient days times the related payment rate increase.

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES  
FOR NURSING FACILITY SERVICES PROVIDED IN NURSING FACILITIES  
OWNED OR OPERATED BY A TRIBE OR TRIBAL ORGANIZATION**

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES  
FOR NURSING FACILITY SERVICES PROVIDED IN NURSING FACILITIES  
OWNED OR OPERATED BY A TRIBE OR TRIBAL ORGANIZATION**

**SECTION 1.000 PURPOSE AND SCOPE**

This plan describes the methods and standards for determining payment rates for nursing facility (NF) services provided in facilities owned or operated by a tribe or tribal organization.

In general, per diem payment rates are determined annually on an interim basis with final settlement occurring after each State fiscal year.

**SECTION 2.000 METHODOLOGY**

**Medicare Principles**

Payment rates are determined in accordance with Medicare principles and are established by the Medicare intermediaries, with the ~~adjustment~~ adjustments described ~~below~~ in Section 3.000.

**SECTION 3.000 TOTAL OPERATING PAYMENT RATE ADJUSTMENT**

**SECTION 3.010 Nursing facility reimbursement beginning July 1, 1999.**

For the rate ~~years~~ year beginning July 1, 1999 ~~and July 1, 2000~~, the Department will make an adjustment to the total operating payment rate for a nursing facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

A. Effective July 1, 1999, the payment rate is increased by 4.843 percent of compensation related costs and 3.446 percent of all other operating costs. The facility's final 1998 Medicare cost report will be used to calculate the adjustment. The interim rate may be adjusted after receipt of the final notice of program reimbursement from Medicare. ~~Effective July 1, 2000, the payment rate is increased by 3.632 percent of compensation related and 2.585 percent of all other operating costs. The nursing facility's 1999 Medicare cost report will be used to calculate the adjustment. The interim rate may be adjusted after receipt of the final notice of program reimbursement from Medicare.~~

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B. To receive the total operating payment rate adjustment, a nursing facility must apply to the Department. The application must contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a nursing facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan.

1. The Department must review the plan to ensure that the payment rate adjustment per diem is used as provided in item A.

2. To be eligible, the nursing facility must submit its plan for the compensation distribution by December 31 each year. ~~The nursing facility may amend its plan for the second rate year by submitting a revised plan by December 31, 2000.~~ If the nursing facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

C. For a nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the Department must determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item A, and then dividing the resulting amount by the nursing facility's actual resident days.

For a nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the nursing facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all nursing facilities determined under the preceding paragraph, multiplied by the rate increases in item A, and then dividing the resulting amount by the nursing facility's actual resident days.

### **SECTION 3.020 Nursing facility reimbursement beginning July 1, 2000.**

For the rate year beginning July 1, 2000, the Department will make an adjustment to the total operating payment rate for a nursing facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

A. Effective July 1, 2000, the payment rate is increased by 3.632 percent of compensation related and 2.585 percent of all other operating costs. The nursing facility's 1999 Medicare cost report will be used to calculate the adjustment. The interim rate may be adjusted after receipt of the final notice of program reimbursement from Medicare.

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B. To receive the total operating payment rate adjustment, a nursing facility must apply to the Department. The application must contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a nursing facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan.

1. The Department must review the plan to ensure that the payment rate adjustment per diem is used as provided in item A.

2. To be eligible, the nursing facility may amend its plan by submitting a revised plan by December 31, 2000. If the nursing facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

C. For a nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the Department must determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item A, and then dividing the resulting amount by the nursing facility's actual resident days.

For a nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the nursing facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all nursing facilities determined under the preceding paragraph, multiplied by the rate increases in item A, and then dividing the resulting amount by the nursing facility's actual resident days.

**SECTION 3.030 Nursing facility reimbursement beginning July 1, 2001.**

A. For the rate year beginning July 1, 2001, the Department will make an adjustment equal to 3.0 percent of the total operating payment rate. The facility's final 2000 Medicare cost report will be used to calculate the adjustment.

B. For the rate year beginning July 1, 2001, and for admissions occurring on or after that date, the total payment rate for the first 90 paid days after admission is:

1. For the first 30 paid days, 120 percent of the facility's medical assistance per diem rate; and

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2. For the next 60 paid days after the first 30 paid days, 110 percent of the facility's medical assistance per diem rate.

C. For the rate year beginning July 1, 2001, and for admissions occurring on or after July 1, 2001, beginning with the 91<sup>st</sup> paid day after admission, the payment rate is the rate otherwise determined under this Attachment.

D. For the rate year beginning July 1, 2001, two-thirds of the money resulting from the rate adjustment under item A and one-half of the money resulting from the rate adjustment under items B and C must be used to increase the wages and benefits and pay associated costs of all employees except management fees, the administrator, and central office staff.

1. Money received by a facility resulting from the rate adjustments under items A through C must be used only for wage and benefit increases implemented on or after July 1, 2001.

2. A facility may apply for the portions of the rate adjustments under this item. The application must be made to the Department and contain a plan by which the facility will distribute the funds to its employees. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan, if the agreement is finalized after June 30, 2001.

(a) The Department will review the plan to ensure that the rate adjustments are used as required in this item.

(b) To be eligible, a facility must submit its plan for the wage and benefit distribution by December 31, 2001. If a facility's plan for wage and benefit distribution is effective for its employees after July 1, 2001, the portion of the rate adjustments are effective the same date as its plan.

E. Upon the request of the facility, the Department may authorize the facility to raise the per diem rates for private pay residents on July 1, 2001, by the amount anticipated to be required upon implementation of the rate adjustments allowable under items A through C. Until the rate is finalized, the Department will require any amounts collected, which must be used as provide in this item, to be placed in an escrow account established for this purpose with a financial institution that provides deposit insurance. The Department will conduct audits as necessary to ensure that:



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1. The amounts collected are retained in escrow until rates are increased to reflect the wage-related adjustment; and

2. Any amounts collected from private-pay residents in excess of the final rates are repaid to the private-pay residents with interest.

**SECTION 3.040 Changes to nursing facility reimbursement beginning July 1, 2002.**

A. For the rate year beginning July 1, 2002, the Department will make an adjustment equal to 3.0 percent of the total operating payment rate. The facility's final 2001 Medicare cost report will be used to calculate the adjustment.

B. For rate years beginning on or after July 1, 2002, and for admissions occurring on or after that date, the total payment rate for the first 90 paid days after admission is:

1. For the first 30 paid days, 120 percent of the facility's medical assistance rate for each case mix class; and

2. For the next 60 paid days after the first 30 paid days, 110 percent of the facility's medical assistance rate for each case mix class.

C. For rate years beginning on or after July 1, 2002, and for admissions occurring on or after July 1, 2002, beginning with the 91<sup>st</sup> paid day after admission, the payment rate is the rate otherwise determined under this Attachment.

D. For the rate year beginning July 1, 2002, two-thirds of the money resulting from the rate adjustment under item A and one-half of the money resulting from the rate adjustment under items B and C must be used to increase the wages and benefits and pay associated costs of all employees except management fees, the administrator, and central office staff.

1. Money received by a facility resulting from the rate adjustments under items A through C must be used only for wage and benefit increases implemented on or after July 1, 2002.

2. A facility may apply for the portions of the rate adjustments under this item. The application must be made to the Department and contain a plan by which the facility will distribute the funds to its employees. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan, if the agreement is finalized after June 30, 2001.

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(a) The Department will review the plan to ensure that the rate adjustments are used as required in this item.

(b) To be eligible, a facility must submit its plan for the wage and benefit distribution by December 31, 2002. If a facility's plan for wage and benefit distribution is effective for its employees after July 1, 2002, the portion of the rate adjustments are effective the same date as its plan.

E. Upon the request of the facility, the Department may authorize the facility to raise the per diem rates for private pay residents on July 1, 2002, by the amount anticipated to be required upon implementation of the rate adjustments allowable under items A through C. Until the rate is finalized, the Department will require any amounts collected, which must be used as provide in this item, to be placed in an escrow account established for this purpose with a financial institution that provides deposit insurance. The Department will conduct audits as necessary to ensure that:

1. The amounts collected are retained in escrow until rates are increased to reflect the wage-related adjustment; and

2. Any amounts collected from private-pay residents in excess of the final rates are repaid to the private-pay residents with interest.

#### **SECTION 4.000 SPECIAL EXCEPTIONS TO THE PAYMENT RATE**

**SECTION 4.010 Contracts for services for ventilator-dependent persons.** A nursing facility may receive a negotiated payment rate to provide services to a ventilator-dependent person if:

A. Nursing facility care has been recommended for the person by a long-term care consultation team.

B. The person has been hospitalized and no longer requires inpatient acute care hospital services.

C. Necessary services for the person cannot be provided under existing nursing facility rates.

A negotiated adjustment to the operating cost payment rate for a nursing facility must reflect only the additional cost of meeting the specialized care needs of a ventilator-dependent person. For persons who are initially admitted to a nursing facility before July 1, 2001, and have their payment

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rate negotiated after July 1, 2001, the negotiated payment rate must not exceed 200 percent of the highest multiple bedroom rate for a case mix classification K. For persons initially admitted to a facility on or after July 1, 2001, the negotiated payment rate must not exceed 300 percent of the highest multiple bedroom rate for a case mix classification K at that facility.

**SECTION 4.020 Employee scholarship costs and training in English as a second language (ESL).**

A. For the rate years beginning July 1, 2001 and July 1, 2002, the Department will provide to each nursing facility a scholarship per diem of .25 to the total operating payment rate to be used for employee scholarships and to provide job-related training in ESL.

B. For rate years beginning on or after July 1, 2003, the .25 scholarship per diem is removed from the total operating payment rate, and the scholarship per diem is based on actual costs.